

Message Text

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ACTION ARA-20

INFO OCT-01 ISO-00 AGR-20 CEA-02 CIAE-00 COME-00 DODE-00

EB-11 FRB-02 H-03 INR-10 INT-08 L-03 LAB-06 NSAE-00

NSC-07 PA-04 RSC-01 AID-20 CIEP-02 SS-20 STR-08

TAR-02 TRSE-00 USIA-15 PRS-01 SPC-03 FEA-02 OMB-01

IO-14 AF-10 EA-11 EUR-25 NEA-10 DRC-01 /243 W

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P R 091318Z MAR 74

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 2174

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

C O N F I D E N T I A L BRASILIA 1632

E.O. 11652: GDS

TAGS: ETRD BR

SUBJ: BRAZILIAN FOOTWEAR--COUNTERVAILING DUTY COMPLAINT

RESS: STATE 46931 AND 33710; BRASILIA 721 AND 1455

1. IN CHANCE ENCOUNTER WITH MBOFF, BATISTA (HEAD ECON DEPT, FONOFF) MADE FOLLOWING COMMENTS REFLECTING INITIAL GOB REACTIONS AND CONCERN ABOUT US COUNTERVAILING DUTY ACTION ON SHOES. BATISTA MAINTAINED THAT GOB, AT LEAST FONMIN, HAD NOT FULLY UNDERSTOOD THAT US REQUEST WAS FOR TECHNICAL FACT FINDING DISCUSSIONS. IT WAS GOB IMPRESSION THAT ENTIRE EXPORT INCENTIVE PROGRAM WAS TO BE CRITICALLY EXAMINED BY US. IT WAS ONLY AFTER RECENT DISCUSSIONS WITH ECON COUNSELOR (BRASILIA 1455) THAT HE FULLY UNDERSTOOD PROBLEM. HE REQUESTED WRITTEN MEMORANDUM TO CONFIRM US POSITION AND WAS PREPARED TO SET WHEELS IN MOTION TO TRY TO REVERSE PREVIOUS DECISION. UNFORTUNATELY, FORMAL PROCEDURE ON COUNTERVAILING DUTIES INITIATED BEFORE PROCESS COULD BE COMPLETED.

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2. IN UNDERLINING FONMINISTER'S PROFOUND CONCERN ABOUT COUNTERVAILING DUTY ACTION, BATISTA STRESSED THAT WHAT REALLY HURT GIBSON WAS THE LACK OF "ANY NOTICE WHATSOEVER; EVEN 48 HOURS WOULD HAVE BEEN HELPFUL." SUCH ADVANCE NOTICE WOULD HAVE BEEN PARTICULARLY APPROPRIATE IN VIEW OF THE EXCHANGES THAT HAVE PREVIOUSLY OCCURRED ON THIS MATTER, PARTICULARLY THE ONE IN MEXICO CITY.

3. ON THE SUBSTANCE OF THE ISSUE, BATISTA EXPRESSED HIS BELIEF THAT GATT PRACTICES FULLY SUPPORT GOB POLICIES. HE WAS CRITICAL OF THE COUNTERVAILING DUTY LEGISLATION

BECAUSE IT DOES NOT REQUIRE PROOF OF INJURY, A BASIC TENET OF GATT DOCTRINE. HE ALSO NOTED THAT THE GATT IS VERY LIBERAL IN PERMITTING EXPORT SUBSIDY PROGRAMS BY DEVELOPING COUNTRIES. HE OBSERVED THAT THE USG HAS NOT IMPOSED COUNTERVAILING DUTIES ON THE MANY PRODUCTS EXPORTED BY JAPAN AND OTHER COUNTRIES THAT HAVE SIMILAR INCENTIVE OR SUBSIDY PROGRAMS.

4. IN RESPONSE TO A QUESTION ON NEXT STEPS, BATISTA MADE FOLLOWING POINTS: (A) IF IT IS TECHNICALLY FEASIBLE, GOB WOULD PREFER NOT TO DO ANYTHING FOR THE NEXT TEN DAYS, UNTIL THE NEW MINISTERS ARE AT WORK. (B) ANY PUBLIC STATEMENT FROM THE GOB WOULD PROBABLY COME ONLY AFTER US PRESS TREATMENT AND OFFICIAL COMMENTARY HAD BEEN RECEIVED AND EXAMINED. (C) HE DID NOT KNOW WHETHER THE GOB WOULD "COOPERATE" IN THE INVESTIGATION OR NOT; SUCH A MAJOR POLICY DECISION HAD TO BE MADE BY NEXT ADMINISTRATION. BATISTA WILL BE SEEING FONMINISTER DESIGNATE SILVEIRA IN RIO TODAY, MARCH 8, AND WILL ALSO TRY TO DISCUSS ISSUE WITH FINMINISTER DESIGNATE SIMONSEN. FONMINISTER BARBOZA HAD INDICATED THAT HE WOULD TRY TO REACH FINMINISTER DELFIM NETTO ON THE TELEPHONE AND DISCUSS THE MATTER WITH HIM.

5. COMMENT: EMBOFF VIGOROUSLY DEFENDED EMBASSY POSITION IN THE DISCUSSION, PARTICULARLY NOTING THAT THE PROBLEM HAD BEEN UNDER DISCUSSION FOR AN EXTENDED PERIOD OF TIME. BATISTA'S STATEMENT THAT GOB DID NOT "UNDERSTAND" US POSITION
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APPEARS TO BE SELF SERVING AND MAY BE A DEFENSE OF "HARD LINE" APPROACH ADOPTED BY FONOFF. POSITION TAKEN IN VILAR DE QUEIROZ'S RESPONSE TO HENNESY LETTER WAS CLEARED THROUGH THE BRAZILIAN GOVT, INCLUDING FONOFF. IN INTER-GOVERNMENTAL DISCUSSIONS, BATISTA AND THE FOREIGN OFFICE HAVE BEEN ADVOCATING A STRONG POLICY LINE, AND HAVE CITED THE GATT TO SUPPORT THEIR ARGUMENTS. THEIR DELIVERY OF A DIPLOMATIC NOTE (STATE 33710), AFTER WE MADE ANOTHER

REQUEST FOR DISCUSSIONS, IS EVIDENCE OF THEIR STRONG FEELING. IT IS POSSIBLE, HOWEVER, THAT FONOFF DID NOT REALIZE UNTIL RECENTLY THAT UNLESS THESE TECHNICAL DISCUSSIONS WERE INSTITUTED, FORMAL COMPLAINT PROCEDURE WOULD BE INITIATED. (BRASILIA 1455)

6. PARTICULARLY IN VIEW OF BATISTA'S COMMENTS ON PRESS REACTIONS (SEE PARA 4 ABOVE) EMBASSY HOPES THAT PRESS LINE WILL BE KEPT LOW KEY AND THAT PRESS STATEMENTS WILL BE FACTUAL AND WILL STRESS INVESTIGATIVE NATURE OF INQUIRY. WE APPRECIATE THE REVISION OF PRESS RELEASE ON COUNTERVAILING DUTY NOTICE (STATE 46931). WE ALSO HOPE THAT THE INVESTIGATING COMPLAINT WILL BE HANDLED AS EXPEDITIOUSLY AS POSSIBLE.

7. WE BELIEVE IT LIKELY THAT GOB WILL "COOPERATE" WITH COUNTERVAILING DUTY HEARING BY PRESENTING DEFENSE OF ITS POSITION. IT IS HIGHLY PROBABLE THAT BRAZIL WILL ALSO SEEK SUPPORT IN THE GATT AND THE MULTILATERAL TRADE NEGOTIATING FORUMS AS WELL AS IN BILATERAL DISCUSSIONS WITH OTHER LATIN AMERICAN COUNTRIES. COUNTERVAILING DUTY ACTION BY US SO SOON AFTER MEXICO CITY MEETING MAY RESULT IN MORE THAN USUAL CRITICAL RESPONSE BY LATINS.
CRIMMINS

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